

Message 116

Communication from the Commission - TRIS/(2020) 00910  
 Directive (EU) 2015/1535  
 Translation of the message 115  
 Notification: 2019/0479/NL

Forwarding of a detailed opinion received by a Member State (Czech Republic) (article 6, paragraph 2, second indent of Directive (EU) 2015/1535). This detailed opinion extends the standstill period until 02-04-2020.

Comunicado detallado - Podrobné vyjádření - Udførlig udtalelse - Ausführlichen Stellungnahme - Üksikasjalik arvamused - Επιμεριστωμένη γνώμη - Detailed opinion - Avis circonstancié - Parere circostanziato - Detalizēts atzinums - Detali nuomonė - Részletes vélemény - Opinioni dettaljata - Uitvoerig gemotiveerde mening - Opinia szczegółowa - Parecer circunstanciado - Podrobný úsudok - Podrobno mnenje - Yksityiskohtainen lausunto - Detaljerat yttrande - Подробно становище - Aviz detaliat - Aviz detaliat.

Amplia el plazo del estatu quo hasta 02-04-2020. - Produzuje lhůtu pro stávající stav až do 02-04-2020. - Fristen for status quo forlænges til 02-04-2020. - Die Laufzeit des Status quo wird verlängert bis 02-04-2020. - Praeguse olukorra tähtaega pikendatakse kuni 02-04-2020. - Παρατείνει την προθεσμία του status quo μέχρι την 02-04-2020. - Extends the time limit of the status quo until 02-04-2020. - Prolonge le délai de statu quo jusqu'au 02-04-2020. - Proroga il termine dello status quo fino al 02-04-2020. - Pagarina "status quo" laika periodu līdz 02-04-2020. - Pratešia status quo laiko limitą iki 02-04-2020. - Meghosszabbítja a korábbi állapot határidejét 02-04-2020-ig. - Jestendi t-terminu ta' l-istatus quo sa 02-04-2020. - De status-quo-periode wordt verlengd tot 02-04-2020. - Przedłużenie status quo do 02-04-2020. - Prolonga o prazo do statu quo ate 02-04-2020. - Časový limit momentálneho stavu sa predĺži až do 02-04-2020. - Podaljša rok nespremenjenega stanja do 02-04-2020. - Jatkaa status quo määräaika 02-04-2020 asti - Förlänger tiden för status quo fram till: 02-04-2020 - Удължаване на крайния срок на статуквото до 02-04-2020 - Prelungește termenul status quo-ului până la 02-04-2020.

Die Kommission hat diese ausführliche Stellungnahme am 13-03-2020 empfangen.  
 The Commission received this detailed opinion on the 13-03-2020.  
 La Commission a reçu cet avis circonstancié le 13-03-2020.

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(MSG: 202000910.EN)

1. MSG 116 IND 2019 0479 NL EN 02-04-2020 13-03-2020 COM 6.2(2) 02-04-2020

2. Česká republika

3A. Úřad pro technickou normalizaci, metrologii a státní zkušebnictví  
 Biskupský dvůr 1148/5, 110 00 Praha 1  
 tel: + 420 221 802 212, fax: + 420 221 802 440  
 e-mail: eu9834@unmz.cz

3B. Ministerstvo zemědělství,  
 Odbor potravinářský  
 Těšnov 65/17, Praha 1, PSČ 110 00

4. 2019/0479/NL - X00M

5. Article 6(2), second indent, of Directive (EU) 2015/1535

6. Detailed opinion of the Czech Republic on the notification of the Netherlands of 1 October 2019 (Notification 2019/0479/NL)

The Czech Republic thanks the Netherlands for publishing the Order of the State Secretary for Health, Welfare and Sport amending the Tobacco and Smoking Products Order concerning the introduction of standard packaging for cigarettes and roll-your-own tobacco (notified under No 2019/0479/NL), in respect of which, we are providing the detailed opinion below.

The Czech Republic has long been of the opinion that the introduction of uniform (generic) packaging for tobacco products as proposed by the Netherlands could constitute an unjustifiable barrier to the free movement of goods within the internal market.

Tobacco packaging requirements are based on European legislation, specifically Directive 2014/40/EU of the

European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (hereinafter referred to as 'Directive'), which has been approved by the Member States of the European Union and which does not include a requirement for the introduction of uniform packaging.

It is clear from the text of the Directive that an assessment of the effectiveness and progress made in the application of the individual provisions of the Directive and their possible revision by the Commission can be expected in the future, and therefore the Czech Republic wishes to draw attention, by means of this detailed opinion, to the possible negative consequences of the introduction of special legislation by other Member States. In view of the introduction of special packaging for tobacco products in some EU Member States, this may lead to a situation where a product placed on the EU internal market in one Member State cannot be sold in another Member State.

This principle is protected by the provisions of the Treaty on the Functioning of the European Union, in particular Articles 34 and 35.

It is in the interest of the EU Member States and the European Commission to promote a single market that is as open as possible and free of any barriers, which in this case may have the effect of a precedent.

In our opinion, the adoption of the Order could breach the obligations of the Netherlands as an EU Member State under Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark. Under Article 1(2) thereof, a trade mark has a 'unitary character', which means that it has equal effect in all EU Member States and enjoys the same protection throughout the Union regardless of frontiers.

In the opinion of the Czech Republic, the introduction of uniform packaging represents a challenge to the principles of intellectual property protection. The prohibition on the placement of logos and other trade marks undermines the principle of their protection, which is enshrined in many international and EU documents. A blanket restriction would send a strong negative signal on the degree of respect for this type of ownership, with appreciable impacts on the competitiveness and quality of the business environment.

In the light of the above, we believe that the present proposal could constitute a barrier to the free movement of goods.

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European Commission

Contact point Directive (EU) 2015/1535

Fax: +32 229 98043

email: [grow-dir2015-1535-central@ec.europa.eu](mailto:grow-dir2015-1535-central@ec.europa.eu)